



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

DCN: 302-2F-ADHX

REPLY TO THE ATTENTION OF:

FEB 07 2007

DE-9J

**CERTIFIED MAIL** 7001 0320 0005 8932 6477  
**RETURN RECEIPT REQUESTED**

Michael Wilkinson  
DSC Ltd.  
1491 West Jefferson Avenue  
Trenton, Michigan 48183



RE: Notice of Non-Compliance with RCRA §7003 Administrative Order  
Docket No. R7003-5-99-003  
U.S. EPA ID No.: MID 005 320 254

Dear Mr. Wilkinson:

On January 17, 2007, a representative of the Michigan Department of Environmental Quality (Michigan DEQ), inspected the DSC Ltd. (DSC) Tandem Mill Pond (TMP) area, the Wastewater/Leachate Treatment System (WWT System), and the 80,000 gallon above-ground storage tank (80K AST). In addition, a representative of the United States Fish and Wildlife Service (U.S. F&WS) also inspected these same areas on January 25, 2007. During these inspections, evidence was collected that indicates that DSC is not in compliance with Administrative Order (Order), Docket No. R7003-5-99-003, issued by the United States Environmental Protection Agency (U.S. EPA) on June 22, 1999, and the Continuing Emergency Measures Workplan (CEM Workplan), submitted by DSC as required by the Order.

As you may be aware, an oiled great horned owl was found on DSC property just south of the TMP on November 23, 2006, that, despite rehabilitation efforts, subsequently died from oil ingestion and exposure on November 30, 2006. In addition, several reports were received by U.S. EPA in November and December 2006, and again in January 2007 of releases of oil from the 80K AST.

The Michigan DEQ inspector has informed the U.S. EPA that free oil and oily water is accumulated on the TMP, that there is free oil in the corners of the TMP, that free oil is on the soil along the edges of the TMP and that wildlife deterrents such as the propane cannons have been disabled or are not operational. The Michigan DEQ inspector also informed the U.S. EPA that there is at least 8 inches of rolling oil and water in the secondary containment of the 80K AST and that the pumps in the secondary containment are not operational. The U.S. F&WS Special Agent has informed U.S. EPA that oil is pooling on the dike that separates the TMP and

remediation areas to the north. The Special Agent also observed oil seeping from mounds of dirt placed on the dike. Enclosed you will find copies of the photographs taken by the Michigan DEQ inspector and the U.S. F&WS Special Agent.

The U.S. EPA has also reviewed the last Monthly Progress Report of Continuing Emergency Measures (Report) at the TMP for November 2006 (dated December 17, 2006), submitted by Laura Keener of Environmental Specialist on DSC's behalf. In the narrative in Sections 1.0 and 2.0 (which has remained unchanged for over a year), DSC states in Section 1.0 of the Report that "DSC intends to accomplish this objective by removing oil present on the surface of the TMP, by covering oil present in the soil around the TMP, and by deterring wildlife from using the TMP." Based on the reports U.S. EPA has received, DSC is not accomplishing this objective, is not complying with the CEM Workplan approved by the U.S. EPA, and is not in compliance with Section VII.B.3 of the Order. In addition, in Section 2.2 of the Report, DSC indicates that DSC is operating a noise cannon and a wailer. Based on the reports U.S. EPA has received, DSC is not operating a noise cannon and a wailer as wildlife deterrents, is not in compliance with the CEM Workplan approved by the U.S. EPA, and is not in compliance with Section VII.B.3 of the Order. As well, in Section 2.8 of the Report, DSC has not updated the Impediments to Closure Summary for over three years, has not informed the U. S. EPA of any changes in DSC's ability to comply with the Order and has not informed the U.S. EPA of any changes in conditions at the DSC property, that identify or explain DSC's non-compliance.

Section XIV of the Order states that any failure by DSC to comply with the Order shall subject DSC to civil penalties of not more than \$5,500 for each day of failure to comply with the Order. While this letter is not a demand for payment of civil penalties, with this letter, the U.S. EPA requests that within the next 15 calendar days that DSC: 1) respond to the allegations of non-compliance above; and 2) provide information under Section 3007 of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. § 6927 as outlined in the following paragraphs.

The U.S. EPA requires DSC, to submit certain information relating to the conditions at DSC's Gibraltar Facility. We are requiring this information for purposes of evaluating DSC's compliance with Section 7003 as well as Section 3014 of RCRA and its implementing regulations, including but not limited to Title 40 of the United States Code of Federal regulations (40 C.F.R.) §§ 260-266 and 279. Attachment 1 to this letter specifies the information you must submit. You must submit this information within fifteen (15) calendar days of receiving this letter to the U.S. EPA, Attention: Diane Sharrow, Waste, Pesticides and Toxics Division, 77 West Jackson Boulevard, Mail Code DE-9J, Chicago, Illinois 60604.

You may, under 40 C.F.R. Part 2, Subpart B, assert a business confidentiality claim covering all or part of the information in the manner described in 40 C.F.R. § 2.203(b). We will disclose the information covered by a business confidentiality claim only to the extent and by means of the procedures at 40 C.F.R. Part 2, Subpart B. You must make any request for confidentiality when you submit the information since any information not so identified may be made available to the public without further notice.

DSC must submit all requested information under an authorized signature certifying that the information is true and complete to the best of the signatory's knowledge and belief. Should the signatory find, at any time after submitting the requested information, that any portion of the submitted information is false, misleading or incomplete, the signatory should notify us. Knowingly providing false information, in response to this request, may be actionable under 18 U.S.C. §§ 1001 and 1341.

U.S. EPA may use the requested information in the development of an administrative, civil or criminal action.

This request is not subject to the Paperwork Reduction Act, U.S.C. § 3501 et seq., because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

Failure to comply fully with this request for information may subject DSC to, among other things, an additional enforcement action under Section 3008 of RCRA, 42 U.S.C. § 6928.

You should direct technical questions about this request for information to Ms. Sharrow, of my staff, at (312) 886-6199. Legal questions should be directed to Mary McAuliffe at (312) 886-6237

Sincerely,



Lorna M. Jereza, Chief  
Compliance Section 1  
Enforcement and Compliance Assurance Branch

Enclosure (Photographs)

Attachment (Information Request)

cc: Laura Keener, Environmental Specialists

The Corporation Company  
30600 Telegraph Road  
Bingham Farms, MI 48025

Richard A. Barr  
Dean & Fulkerson

## ATTACHMENT 1

**Instructions:** You must respond separately to each of the questions or requests ("Requests") in this Attachment. For each of the following Requests, the terms "DSC" or "you" relates or refers to DSC Ltd., located at West Jefferson, Trenton, Michigan. Precede each answer with the number of the Request to which it corresponds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds. Where documents are only retained in electronic form, please provide copies of these documents as well.

### Definitions:

- A. As used in this request, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.
- B. The term **person** as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
- C. The site referenced in this request shall mean DSC, Ltd., located at 1491 W. Jefferson in Trenton, Michigan, for its Gibraltar Facility as set forth in Exhibit 1 to U.S. EPA's June 1999 Administrative Order No. R7003-5-99-003.
- D. The term **hazardous substance** shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.
- E. The term **pollutant** or **contaminant** shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
- F. The term **release** shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, *including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.*
- G. The term **identify** means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
- H. The term **identify** means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full

name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

- I. The term **identify** means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, address, addressee and/or recipient, and the substance or the subject-matter.
- J. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, and 40 C.F.R. Parts 260-280, Michigan Part 111 Administrative Rules 299.9101 *et seq.*, in which case, the statutory or regulatory definitions shall apply.
- K. The term **document** means all written, printed, typed, handwritten, drawn, recorded, graphic, pictorial, photographic or electronic matter, information, data, symbols, words or numbers of every type and description, however and whomever prepared, produced, recorded, generated, stored, reproduced, disseminated or made, in any form within the full scope of Rule 34 (a) of the Federal Rules of Civil Procedure. The term **document** shall also include each copy which is not identical to the original or to any other copy produced or identified in response to this document request, whether different from the original or other copies by reason of notations, marginalia or otherwise.
- L. U.S. EPA or EPA means the United States Environmental Protection Agency itself, its Regional offices, and any of its officers, agents or employees.
- M. MDEQ or DEQ means the State of Michigan's Department of Environmental Quality, its regional or district offices, and any of its officers, agents or employees.
- N. Pursuant to Michigan Administrative Code (MAC) Rule 299.9109 (p), "used oil" means any oil which has been refined from crude oil, or any synthetic oil, which has been used and which as a result of the use, is contaminated by physical or chemical impurities [40 C.F.R. §§ 260.10 and 279.1].
- O. Pursuant to MAC Rule 299.9109(x) [40 C.F.R. §§ 279.10 and 279.20(a)], "used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes the used oil to become subject to regulation.
- P. Pursuant to MAC Rule 299.9106(b) [40 C.F.R. §§ 260.10 and 279.1], "on-site" means on the same or geographically contiguous property which may be divided by a public or private right-of-way if the entrance and exit between the pieces of property are at a cross-roads intersection and access is by crossing, rather than going along, the right-of-way. Non-contiguous pieces of property owned by the same person but connected by a right-of-way which the owner controls and which the public does not have access to is considered on-site property.

- Q. Pursuant to MAC Rule 299.9107(ff) [40 C.F.R. §§ 260.10 and 279.1], “surface impoundment” or “impoundment” means a treatment, storage or disposal facility or part of a treatment, storage or disposal facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid, wastes or wastes containing liquids, which is not an injection well. Examples, of surface impoundments are holding, storage, settling and aeration pits, ponds and lagoons.
- R. Pursuant to MAC Rule 299.9108(a) [40 C.F.R. §§ 260.10 and 279.1], “tank” means a stationary device which is designed to contain an accumulation of hazardous waste and which is constructed primarily of non-earthen materials, such as wood, concrete, steel, or plastic, that provide structural support.
- S. Pursuant to MAC Rule 299.9109(aa) [40 C.F.R. §279.1], “used oil tank” means a stationary device which is designed to contain an accumulation of used oil and which is constructed primarily of non-earthen materials, such as wood, concrete, steel, or plastic, that provide structural support.
- T. Pursuant to MAC Rule 299.9109(u) [40 C.F.R. §279.1], “used oil existing tank” means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation has commenced, on or before the effective date of the amendments to these rules that established the states’ used oil program under RCRA. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the tank and if either of the following provisions applies: (I) a continuous on-site physical installation program has begun, or (ii) the owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for installation of the tank system to be completed within a reasonable time.
- U. Pursuant to MAC Rule 299.9109(4) [40 C.F.R. § 279.1], “used oil new tank” means a tank that is used for the storage or processing of used oil and for which installation has commenced after the effective date of amendments to these rules that establish the state’s used oil program under RCRA.

### **Requests**

1. Identify all persons consulted in preparing the answers to this Request for Information. Provide the full name and title for each person identified, including addresses, telephone numbers and the number of years that each identified individual has worked for or at DSC.
2. Identify all property owned by DSC Ltd., in Trenton and/or Gibraltar, Michigan, as of June 22, 1999.

3. Identify all property sold by DSC in Trenton and/or Gibraltar, Michigan from June 22, 1999, to January 31, 2007, and indicate the name, address and telephone number of the purchaser(s).
4. Identify the name and title of each employee who continues to work at or for DSC in Trenton and in Gibraltar, Michigan as of January 31, 2007.
5. Describe your operations at DSC's Gibraltar Facility as such operations relate to storage of oil and used oil in tanks and containers. Include information on how long you have been storing oil or used oil in tanks and containers at DSC. Indicate whether you have ever notified either the U.S. EPA or the MDEQ of your used oil operations at DSC. If you have, provide a copy of what you provided to either U.S. EPA or MDEQ.
6. Identify all tanks owned and/or operated by DSC, regardless of whether they are currently in use. Include the following information:
  - a. the owner, location and contents of the tanks;
  - b. the age of the tanks;
  - c. the materials that they are constructed from; and
  - d. when they were in use and/or how long they have been in use.
7. Provide any information that you have such as inspection logs (provide copies of any inspection logs for the time period June 1, 1999 to present), repair logs, or any other records such as tank testing/integrity records that have been used or are being used to determine that all the tanks at DSC are maintained in good condition (no severe rusting, apparent structural defects or deterioration); and not leaking (no visible leaks). If you have tested a tank(s) then provide the following information:
  - a. identification of the tank and the date of the last test;
  - b. a copy of the results of the test;
  - c. who conducted the test and the test method that was used.
8. For each tank owned and/or operated by DSC used to store used oil or oil, indicate if the used oil had total halogen concentrations greater than 1000 parts per million (ppm) and how you made that determination. If the total halogen concentration of the used oil was greater than 1000 ppm, describe what you did with that used oil. Include a discussion on how you determined whether the used oil was mixed with a listed hazardous waste.
9. Have you ever notified the U.S. EPA or the MDEQ that you are a used oil processor? If you have, include a copy of the notification form or letter which you submitted.
10. Did you, or do you, have a contingency plan which meets the requirements of MAC R 299.9813(3) [40 C.F.R. § 279.52(b)] for DSC? If so, provide a copy of the contingency plan.

11. Have you submitted the contingency plan identified in response to the question 10, above to the local police and fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services? Who did you provide the contingency plan to? When did you provide them with a copy of the contingency plan? Provide a copy of the contingency plan you provided and a copy of any correspondence transmitting the plan.
12. For each tank owned or operated by DSC holding oil or used oil, indicate if they are "existing tanks" or "new tanks" as defined by MAC R 299.9109(t) or (x) [40 C.F.R. § 279.1]. Provide an explanation and supporting documents for your answer.
13. Do the oil or used oil tanks at DSC have secondary containment which meets the requirements of MAC R 299.9813(3) [40 C.F.R. § 279.54(d)] for existing tanks or 40 C.F.R. § 279.54(e) for new tanks? If you assert that the tanks have secondary containment, provide supporting documents for your answer. Include information on the date of its construction and the materials of construction.
14. Do you have an analysis plan as required by MAC R 299.9813(3) [40 C.F.R. § 279.55]? If you assert that you have such an analysis plan, provide a copy of the plan.
15. Do you have records of each used oil shipment you accepted at DSC as required by MAC R 299.9813(3), 40 C.F.R. § 279.56? If you assert that you have such records describe the records and provide an example of the records.
16. Do you have an operating record as required by MAC R 299.9813(3) [40 C.F.R. § 279.57(a)]? If you assert that you do have such an operating record, provide a copy of the operating record for the last year.
17. Have you submitted a biennial report as required by MAC R 299.9813(3) [40 C.F.R. § 279.57(b)]? If you assert that you have submitted such a biennial report, provide a copy of the last biennial report you submitted.
18. Do you ship used oil off-site from DSC for fuel burning? For the purpose of this question, used oil includes used oil that has been processed, recycled or reclaimed at DSC. If the answer to this question is anything but an unqualified no then provide the following information:
  - a. the name and address of the person or company that you ship the used oil to;
  - b. the amounts of used oil you shipped off-site; and
  - c. any information (i.e., including sampling) indicating the concentration of arsenic, cadmium, chromium, lead, flash point and total halogen content of the used oil.



19. Identify all tanks at DSC's property that are leased or used by a company or facility other than DSC from June 1, 1999 to present. For each such tank identified, provide the following:
- a. A copy of the lease agreement;
  - b. The name and address of the owner of the tank;
  - c. The name and address of the lessee of the tank; and
  - d. The contents of the tank and the source of those materials.
20. Provide the following notarized certification by a responsible corporate officer:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in response to this information request. Based on my review of all relevant documents and my inquiry of those individuals immediately responsible for providing all relevant information and documents, I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Corporate Officer)



Date: January 17, 2006

Photo by: Tracy Kecskemeti, MDEQ WB

Location: Detroit Steel Company (DSC), Gibraltar, MI.

Direction: Facing North

Description: Leachate treatment system and Tandem Mill Pond (TMP) remediation area.

Pond in the foreground is one cell of the TMP area; note high water level. Ponds in background are part of the leachate treatment system; note high water level. Detroit Cold Rolling mill in the far background.



Date: January 17, 2006

Photo by: Tracy Kecskemeti, MDEQ WB

Location: DSC, Gibraltar

Direction: Facing east

Description: TMP remediation area; free oil and oily soil at the edge of one cell of the TMP



Date: January 17, 2006

Photo by: Tracy Kecskemeti, MDEQ WB

Location: DSC, Gibraltar.

Direction: Facing east

Description: TMP remediation area; free oil and oily soil at the edge of one cell of the TMP





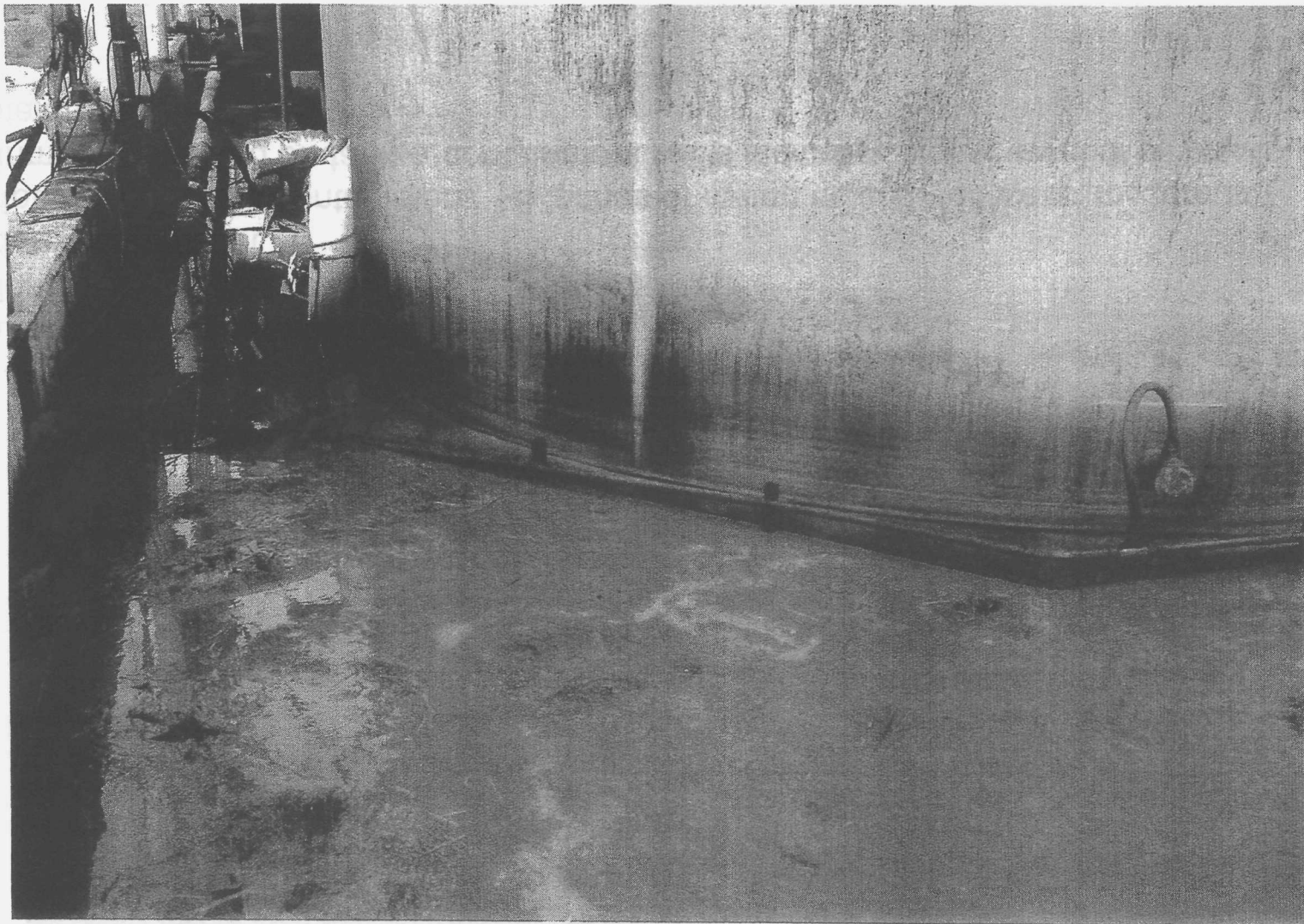
Date: January 17, 2006

Photo by: Tracy Kecskemeti, MDEQ WB

Location: DSC Gibraltar.

Direction: Facing northeast

Description: TMP remediation area; free oil and oily soil within the TMP area



Date: January 17, 2006

Photo by: Tracy Kecskemeti, MDEQ WB

Location: Detroit Cold Rolling (DCR), Gibraltar.

Direction: Facing North

Description: 80K tank containment; ~8 inches of rolling solution/oil/water mixture in containment.

Staining on tank & containment walls indicates higher level of oil previously in containment.



Date: January 17, 2006

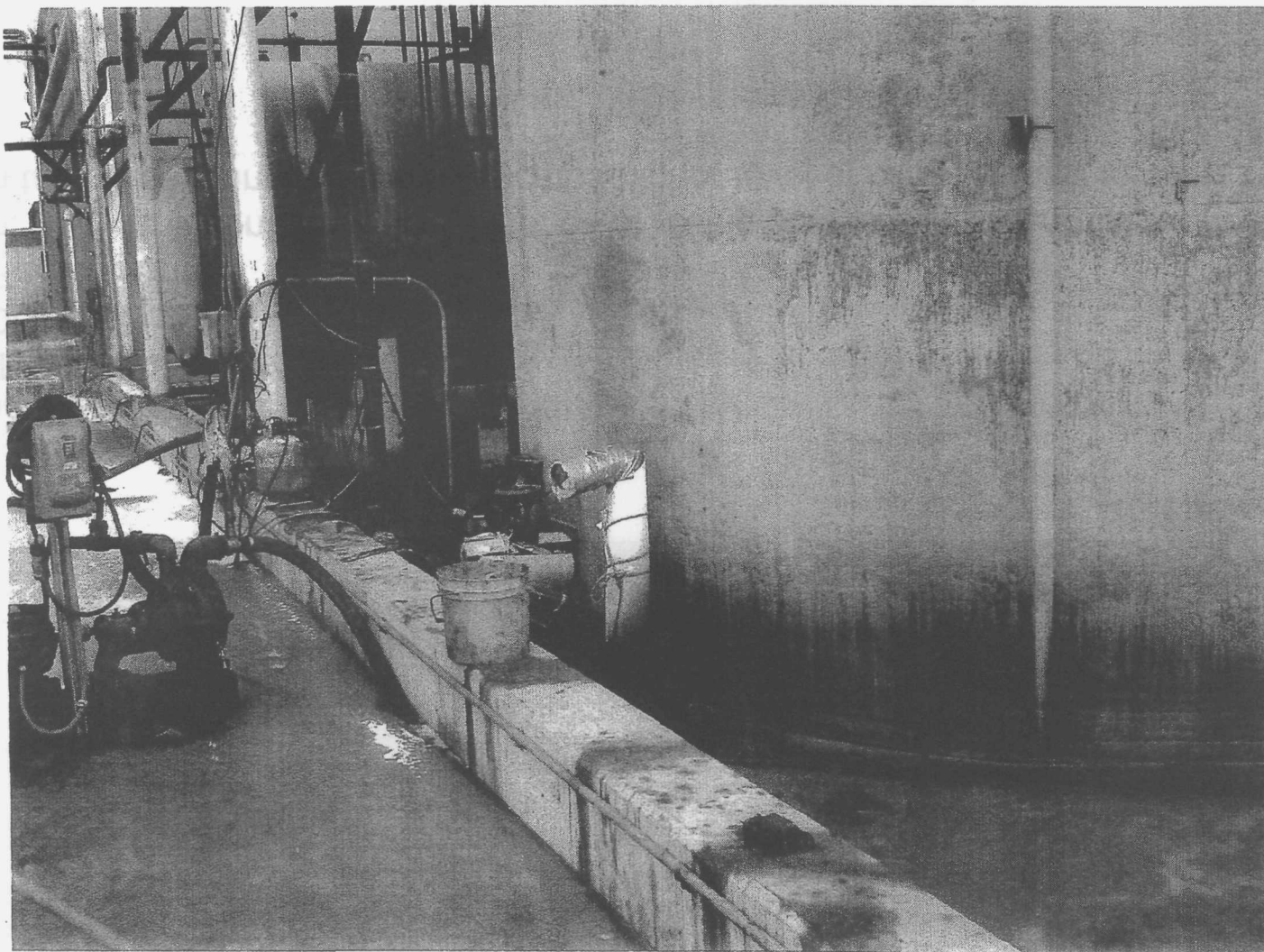
Photo by: Tracy Kecskemeti, MDEQ WB

Location: DCR, Gibraltar.

Direction: Facing east

Description: 80K tank containment; ~8 inches of rolling solution/oil/water mixture in containment. Staining on tank & containment walls indicates higher level of oil previously in containment.





Date: January 17, 2006

Photo by: Tracy Kecskemeti, MDEQ WB

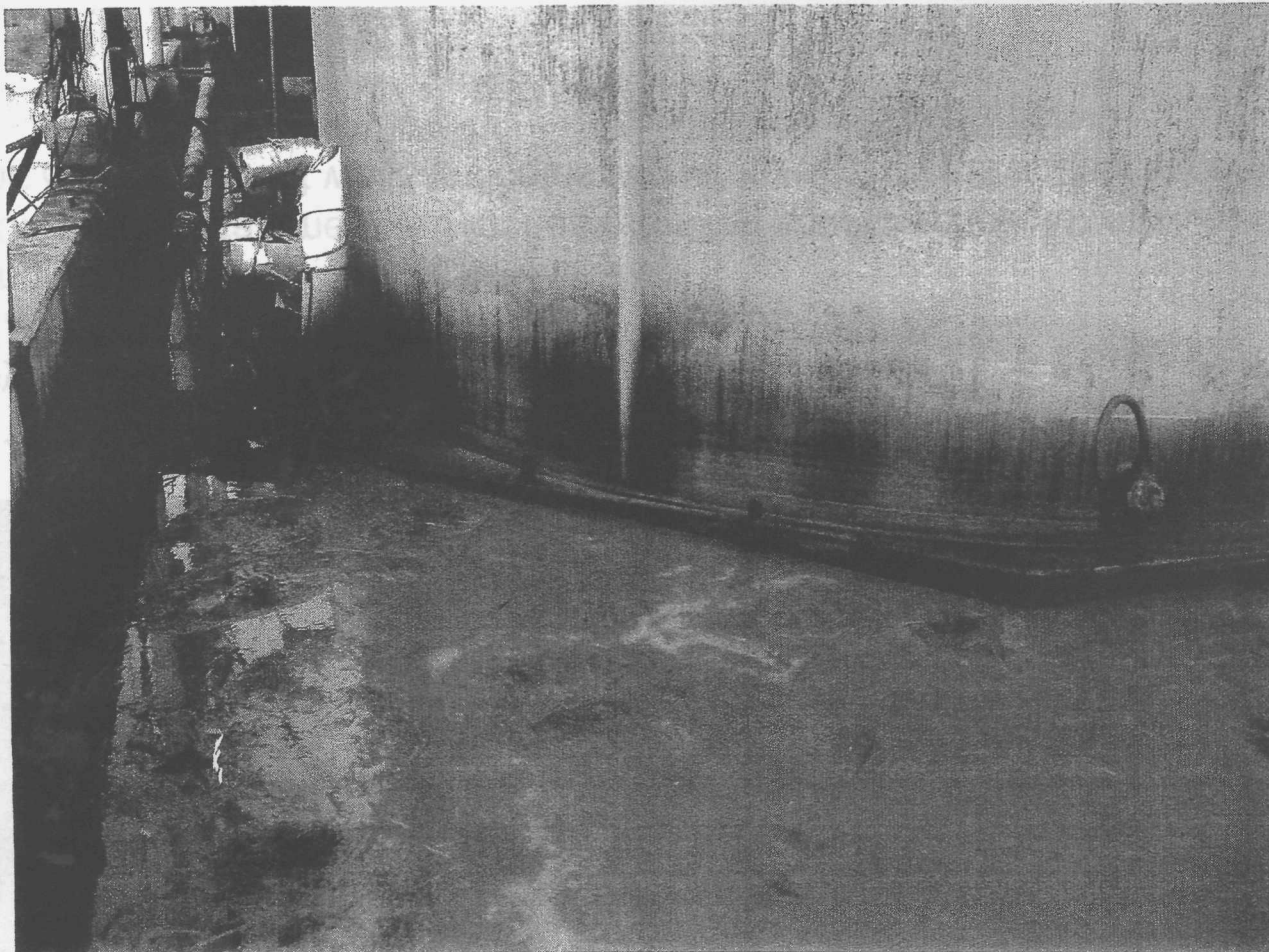
Location: DCR, Gibraltar

Direction: Facing northeast

Description: 80K tank containment; ~8 inches of rolling solution/oil/water mixture in containment.

Staining on tank & containment walls indicates higher level of oil previously in containment.





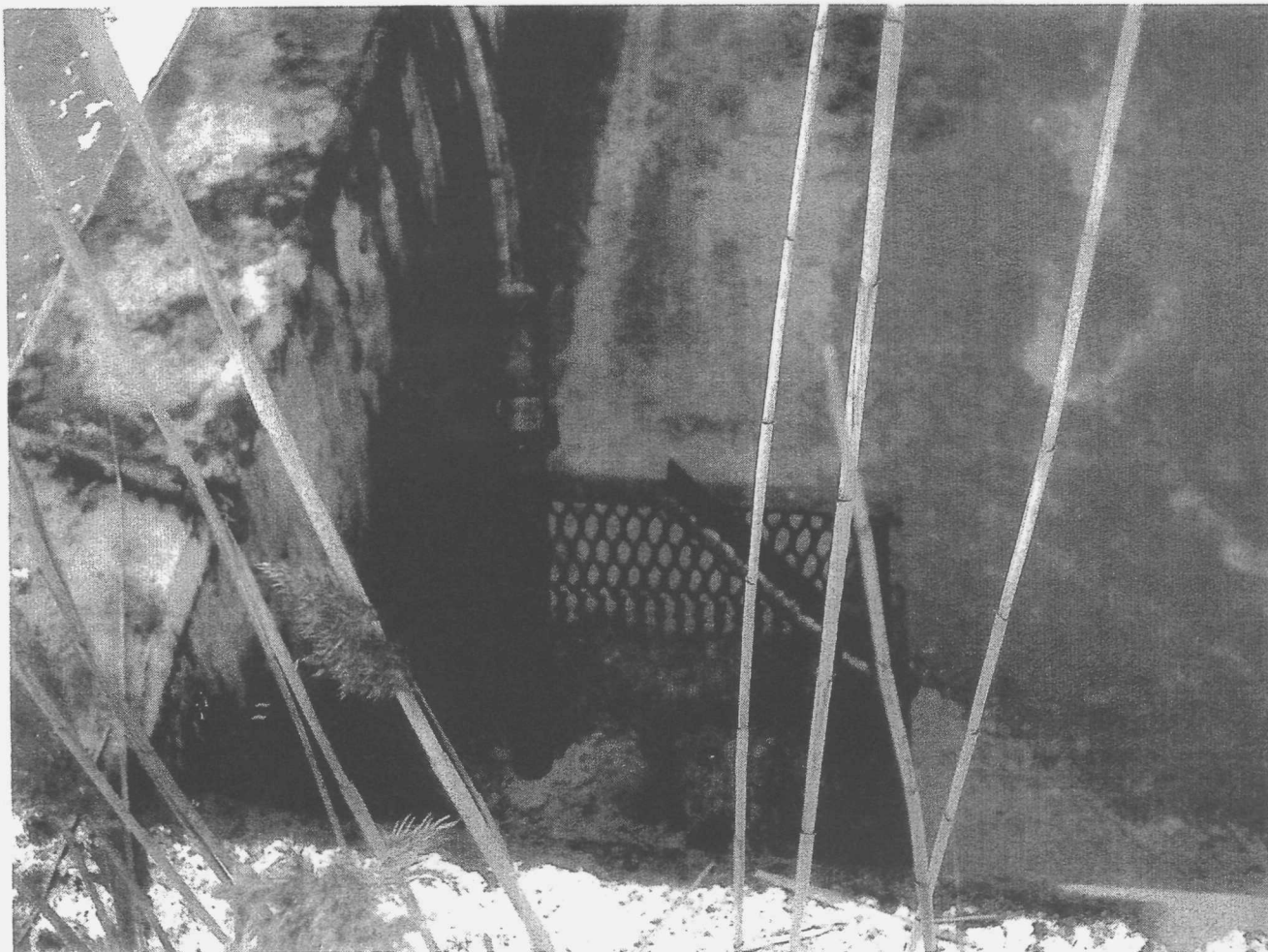
Date: January 17, 2006

Photo by: Tracy Kecskemeti, MDEQ WB

Location: DCR, Gibraltar.

Direction: Facing north

Description: 80K tank containment; ~8 inches of rolling solution/oil/water mixture in containment. Staining on tank & containment walls indicates higher level of oil previously in containment.



Date: January 17, 2006

Photo by: Tracy Kecskemeti, MDEQ WB

Location: DCR, Gibraltar.

Direction: Facing north

Description: 80K tank containment; ~8 inches of rolling solution/oil/water mixture in containment.

Sump in southwest corner of containment. Facility personnel indicated that the pump was not operational and there were no signs of discharge of oil outside of the containment area.